

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

1

The Minutes

July 19, 2004

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Robie, Associate Justice; Butz, Associate Justice; and Guzman, bailiff.

C044224 THE PEOPLE v. BELAHBIB

Cause called. Charles M. Sevilla argued for appellant. Jesse Witt, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:58 a.m., the court recessed. At 10:04 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; Robie, Associate Justice.

C045004 SHIELDS et al. v. BERBERIAN et al.

Cause called. John M. Latini argued for appellants. John R. Conger argued for respondents. Cause submitted.

At 10:22 a.m., the court recessed until 9:30 a.m., Monday, July 26, 2004.

C044502 THE PEOPLE v. LEIGHTON (Not for Publication)

The judgment is affirmed.

BUTZ, J.

We concur: Blease, Acting P.J.
Davis, J.

C045416 THE PEOPLE v. VIGIL (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We concur: Raye, Acting P.J.
Butz, J.

C042706 REEVES v. ROCHA (Not for Publication)

The order quashing services of summons is affirmed.

RAYE, J.

We concur: Davis, Acting P.J.
Butz, J.

C044948 THE PEOPLE v. WOLFE

BY THE COURT:

Appellant's petition for rehearing is denied.

BLEASE, Acting P.J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

2

The Minutes

July 20, 2004

- C043059 THE PEOPLE v. OLSEN (Not for Publication)**
The judgment is reversed. On remand, the trial court shall vacate its order denying the suppression motion, enter a new order granting the motion, and allow defendant to withdraw her plea.
BUTZ, J.
I concur: Blease, Acting P.J.
I dissent:
After her motion to suppress was denied, the defendant pled no contest to voluntary manslaughter of her newborn child and related crimes. We now reverse the trial judge's denial of the motion to suppress and permit the defendant to withdraw her plea of no contest...
Morrison, J.
- C043187 THE PEOPLE v. COLABINE (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Blease, J.
Davis, J.
- C044389 THE PEOPLE v. RODRIGUEZ-GONSALEZ (Not for Publication)**
The trial court is directed to prepare amended/corrected abstracts of judgment as follows:...
... These correction do not affect the judgment. The judgment is affirmed.
BUTZ, J.
We concur: Blease, Acting P.J.
Davis, J.
- C044668 THE PEOPLE v. PARKER (Not for Publication)**
The judgment is modified... As modified, the judgment (order of probation) is affirmed.
ROBIE, J.
We concur: Davis, Acting P.J.
Hull, J.
- C044690 THE PEOPLE v. KLOVACH (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to modify its records accordingly, to prepare an amended abstract of judgment, and to forward a certified copy of the amended abstract to the Department of Corrections
RAYE, J.
We concur: Blease, Acting P.J.
Davis, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

3

The Minutes

July 20, 2004, continued

- C045108 THE PEOPLE v. DEL RIO (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting that the term imposed for possession of methamphetamine was based on the midterm ("M") and was eight months, not seven. The amended abstract shall also reflect that defendant was ordered to register as a narcotics offender. The trial court shall forward a certified copy of the amended abstract to the Department of Corrections.
BUTZ, J.
We concur: Blease, Acting P.J.
 Davis, J.
- C045112 THE PEOPLE v. FLORES (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We concur: Raye, Acting P.J.
 Hull, J.
- C045212 THE PEOPLE v. COSTA, JR. (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. Defendant's appellate counsel is directed to forward a copy of this opinion to defendant. The trial court is directed to prepare an amended abstract of judgment reflecting the registration requirement and that conduct credits were awarded pursuant to section 2933.1. The trial court is directed to forward a certified copy of the amended abstract to the Department of Corrections.
Robie, J.
We concur: Davis, Acting P.J.
 Hull, J.
- C043877 OPERATING ENGINEERS LOCAL UNION NO. 3, INTERNATIONAL UNION
OF OPERATING ENGINEERS, AFL-CIO, et al. v. PHIBBS et al. (Not for Publication)**
The order disqualifying the WRR law firm from representing plaintiffs in this action is affirmed.
SCOTLAND, P.J.
We concur: Blease, J.
 Davis, J.
- C044536 SINGH v. SAINT CLAIRE'S NURSING CENTER, INC. (Not for Publication)**
The judgment of dismissal is affirmed.
RAYE, J.
We concur: Blease, Acting P.J.
 Davis, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

4

The Minutes

July 20, 2004, continued

C044518 THE PEOPLE v. MCKINNIE

BY THE COURT:

Appellant's application to stay issuance of the remittitur, to vacate the court's opinion, and for leave to file a supplemental opening brief is granted. The decision filed on April 8, 2004, is vacated. Appellant's supplemental brief is filed this date. The People may file a responsive brief on or before August 4, 2004.

SCOTLAND, P.J.

C045108 THE PEOPLE v. DEL RIO

(Not for Publication)

THE COURT:

It is ordered that the opinion filed herein on July 20, 2004, be modified as follows:

BY THE COURT:

BLEASE, Acting P.J.

DAVIS, J.

BUTZ, J.

July 21, 2004

C042802 THE PEOPLE v. MANCILLAS

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Raye, J.

Robie, J.

C043902 THE PEOPLE v. CONDOSTA

(Not for Publication)

The judgment is affirmed.

RAYE, J.

We concur: Blease, Acting P.J.

Robie, J.

C044749 MOORE v. TWOMEY, as Deputy Sheriff, etc., et al.

(Certified for Publication)

The judgment of dismissal is reversed and the matter remanded for further proceedings. Plaintiff shall recover costs on appeal.

RAYE, J.

We concur: Scotland, P.J.

Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

5

The Minutes

July 21, 2004, continued

C045102 THE PEOPLE v. PRICE

BY THE COURT:

Appellant's petition for rehearing is granted. The decision filed on June 29, 2004, is vacated. Consequently, submission of the case is vacated and the matter will be resubmitted following supplemental briefing.

Appellant's supplemental opening brief is to be served and filed on or before August 10, 2004. Respondent's supplemental brief is to be served and filed 20 days after the filing of appellant's brief.

No supplemental reply brief will be allowed.

SCOTLAND, P.J.

C046652 THE PEOPLE v. MORGAN

BY THE COURT:

On the court's own motion, the order of dismissal filed July 15, 2004, is vacated, and the appeal is reinstated.

Appellant's opening brief is to be served and filed on or before August 20, 2004.

SCOTLAND, P.J.

July 22, 2004

C040891 THE PEOPLE v. ADAMS

(Certified for Publication)

The judgment is reversed.

MORRISON, J.

We concur: Blease, Acting P.J.
Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

6

The Minutes

July 23, 2004

MISC. ORDER 2004-006

BY THE COURT:

In pending appeals in which an appellant's opening brief was filed prior to the date this order is issued, and in which an opinion has not yet been filed, an application for leave to file a supplemental opening brief shall *not* be required before filing of a supplemental brief in which proponent's claim for relief is premised on the decision of the United States Supreme Court in *Blakely v. Washington* (No. 02-1632. June 24, 2004) 542 U.S. ____; 124 S. Ct. 2531; 159 L.Ed.2d. 403; 2004 WL 1402697; 2004 DJDAR 7581. Henceforth, appellants shall not submit for filing any application for leave to file a supplemental brief premised on *Blakely*.

If a supplemental opening brief is filed pursuant to this order, the time for filing respondent's brief shall be extended by 15 days. If respondent's brief has already been filed, respondent shall have leave to file a supplemental respondent's brief within 15 days of the date of filing of the supplemental opening brief.

SCOTLAND, P.J.

C044333 THE PEOPLE v. FLOWERS (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Raye, J.
 Robie, J.

C042505 & C043375

**DUARTE et al. v. BOGGS STEEL FABRICATION, INC., et al.
(Not for Publication)**

The judgment in favor of Boggs is reversed. The judgment in McCutchen's favor is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a).)

SCOTLAND, P.J.

We concur: Robie, J.
 Butz, J.

C042273 THE PEOPLE v. FISHER et al. (Not for Publication)

THE COURT:

It is ordered that the opinion filed here in on June 29, 2004, be modified...
...There is no change in the judgment. Alcantara's petition for rehearing is denied.

BY THE COURT:

SCOTLAND, P.J.

ROBIE, J.

BUTZ, J.